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a valuable consideration, gave to the plaintiff a promise in writing to pay the *lien*. The defendant only did voluntarily what he might have been compelled to do, and has suffered no injury.

LITTELL V. THE JULIUS LANSBURG CO.—Decided at Richmond, January 12, 1899.—*Harrison, J.*:

1. ATTACHMENTS—*Petitions—Rights of third parties—Case at bar.* A plaintiff in attachment, who has a deed of trust on the property attached, cannot unite with the trustees in the deed and come into the attachment suit by petition and ask to have the attached property delivered to the trustees. Sec. 2984 of the Code was intended for the protection of the rights of third parties and not of the plaintiff in the attachment. In the case at bar the plaintiff, though united with the trustees, was the real petitioner, and the attachment having been quashed because issued without sufficient cause and upon false suggestion, the property was rightly restored to the defendant.

KELLER V. STONE, REGISTRAR, AND WALKER V. STONE, REGISTRAR.—Decided at Richmond, January 26, 1899.—*Cardwell, J.*:

1. MANDAMUS—*Registration books—Copies.* Mandamus does not lie to compel the registrar of an election precinct to make copies of the registration books in his possession or to permit such copies to be made.

2. MANDAMUS—*Poll-books—Copies—Jurisdiction of Court of Appeals.* Mandamus does lie to compel a clerk who is the custodian of the poll-books after an election to permit a party interested to inspect them and to take therefrom at and within a reasonable time, in the presence of the clerk, memoranda and notes such as are proper to be made, as declared in *Gleaves v. Terry*, 93 Va. 491, and this court has jurisdiction to award such *mandamus*.

HARRIS V. JONES AND OTHERS, COMMISSIONERS.—Decided at Richmond, January 26, 1899.—*Harrison, J.* Absent, *Cardwell* and *Buchanan, JJ.*:

1. CHANCERY PRACTICE—*Decree for sale of land—Account of liens.* It is error to decree a sale of land to satisfy encumbrances thereon until an account has been taken of the encumbrances and their relative priorities. But if a decree of sale has been entered and thereafter a decree for an account of liens, the latter decree operates to suspend the sale until the account has been taken and confirmed.

2. CHANCERY PRACTICE—*Vacation decrees—Confirming report of liens—Hearing on merits.* A decree confirming a report of liens disposes of the cause on its merits and cannot be entered in vacation except by consent of parties, as provided in section 3427 of the Code.

SOUTHERN RAILWAY COMPANY V. FRANKLIN AND PITTSYLVANIA RAILROAD COMPANY.—Decided at Richmond, February 2, 1899.—*Riely, J.*:

1. CONTRACTS—*Implied covenants—Case in judgment—Railroads—Lease.* Although courts are careful in inferring covenants and promises not contained in written contracts, yet what is necessarily implied is as much a part of the instru-

ment as if plainly expressed, and will be enforced as such. If the language of the instrument leaves the meaning of the parties in doubt the court will take into consideration the occasion which gave rise to it, the obvious design of the parties and the object to be attained, as well as the language of the instrument itself and give effect to that construction which will effectuate the real intent and meaning of the parties. In the case in judgment it is manifest that the intention of the parties was that the railroad leased by the appellee should be maintained and operated by the lessee during the entire term of the lease, and, under the evidence in this cause, the appellant is as much bound by the covenants, expressed or implied, of the lease as if it had been an original party thereto.

2. *CONTRACTS—Implied covenants—Adding to written contracts.* A necessary inference from a written contract of an obligation to do what the parties actually intended and what is essential to give effect and validity to it, is not an addition to the contract.

3. *INJUNCTIONS—Railroads—Lease—Inadequate remedy at law.* An injunction will lie to prevent the lessee of a railroad from ceasing to operate it during the lease when his contract compels him to maintain and operate the road during the whole term of the lease. The remedy at law to recover damages for the breach of the contract is neither complete nor adequate.

4. *SPECIFIC PERFORMANCE—Railroads—Operating leased road.* Equity will compel a railroad company to specifically perform its contract to maintain and operate a leased road, although the lease has some years to run and the maintenance and operation of the road require continuous acts involving the exercise of skill and judgment.

5. *SPECIFIC PERFORMANCE—Hardship.* A court of equity will not refuse the specific performance of a contract on the sole ground of hardship where it appears that the contract, in its inception, was fairly and justly made, and that the hardship is the result of miscalculation, or is caused by subsequent events, or a change of circumstances, and the party seeking performance is wholly without fault.

6. *SPECIFIC PERFORMANCE—Railroads—Operating leased road—Branch roads.* Where a railroad company may be properly compelled to maintain and operate a leased road, and it is plainly implied in the lease that a branch road of the lessee was to be operated in conjunction with the leased road so as to reach the main line of the lessee, it is not error, in a suit to compel the company to maintain and operate the leased road, to require it to maintain and operate the branch road also during the term of the lease.

7. *CHANCERY PRACTICE—Specific performance—Railroads—Continuing case on docket.* A suit to compel a railroad company to maintain and operate a railroad which it has leased should be continued on the docket during the term of the lease so as to enable the court to make such additional orders from time to time as circumstances may require.

GOLDSMITH & Co. v. LATZ.—Decided at Richmond, February 2, 1899.—*Harrison, J. Absent, Buchanan and Cardvell, JJ:*

1. *CONTRACT OF SERVICE—Case in judgment—Construction.* The proper construction of the contract in suit is that, while the time of service was from April